



PTO/SB/64 (09-06)

Approved for use through 03/31/2007. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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DA C  
JRW

<b>PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)</b>	Docket Number (Optional) <b>4615</b>
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First named inventor: **Robert Rascon**Application No.: **10/668,712** Art Unit: **3673**Filed: **09/23/2003** Examiner: **SAFAVI, Michael**Title: **RETENTION APPARATUS AND METHOD  
FOR STABILIZING CONCRETE FORMS**

Attention: Office of Petitions  
Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

Small entity-fee \$ 750.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

Other than small entity - fee \$ \_\_\_\_\_ (37 CFR 1.17(m))

2. Reply and/or fee

- A. The reply and/or fee to the above-noted Office action in the form of Petition to Revive CFR 1.137(a) (identify type of reply):

has been filed previously on July 19, 2006  
 is enclosed herewith.

- B. The issue fee and publication fee (if applicable) of \$ 700.00.  
 has been paid previously on July 19, 2006.  
 is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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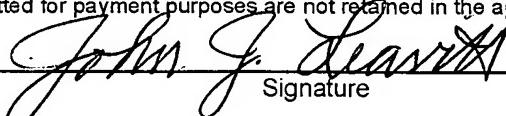
## 3. Terminal disclaimer with disclaimer fee

- Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

## 4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

**WARNING:**

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.




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 Signature

January 20, 2007

Date

John J. Leavitt

Typed or printed name

P. O. Box 6478

Address

18,440

Registration Number, if applicable

(408) 264-4514

Telephone Number

San Jose, CA 95150-6478

Address

Enclosures:  Fee Payment Reply Terminal Disclaimer Form Additional sheets containing statements establishing unintentional delay Other: Copy: Petition under 37 CFR 1.137(a) (Dismissed)**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]**

I hereby certify that this correspondence is being:

- Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.
- Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

01/20/2007

Date




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 Signature
John J. Leavitt

Typed or printed name of person signing certificate

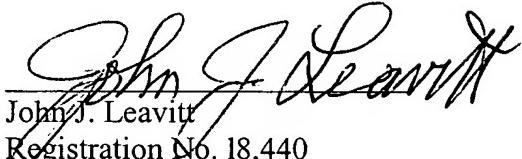


### STATEMENT SUPPORTING UNINTENTIONAL DELAY

The undersigned was diagnosed as having severe Rheumatoid Arthritis in June of 1964 following graduation from Law School. I have battled the disease for many years by many different methods and medications. In late 2005 I experienced a serious flare-up of the disease that essentially rendered me immobile. Attached hereto are copies of medical records from doctors that have been treating me for the disease. From these records it will be seen that late 2005 through June of 2006 was a particularly difficult time for me that prevented me from meeting deadlines.

Respectfully submitted,

Dated: 01/20/2007



John J. Leavitt  
Registration No. 18,440

AD AUTHORIZATION

JAN 20 2007


**SELECTED  
AUTHORIZATION**

Main Menu Short Cuts

Site: GATEWAY FAMILY MEDICAL CENTER

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Member:	LEAVITT,JOHN J 1677 PATIO DR / SAN JOSE, CA 95125 / 4082641788
Plan / HMO ID:	PACIFICARE/SECURE HORIZONS MED / 201298101
Date of Birth:	9/11/1926
PCP:	MELANIE MARTIN MD / SCCIPA
Date / Number:	12/28/2005-09687598
Expiration Date:	4/27/2006
Patient Requested?:	No
Referred From:	TINNY DOHN MD 1580 SO WINCHESTER BLVD, SUITE 202 / CAMPBELL, CA 95008 / (408) 364-7600
Referred To:	BRUCE J DREYFUSS MD Rheumatology 25 N 14TH ST #890 / SAN JOSE, CA 95112 / (408) 288-6623
Visits:	6
Diagnosis:	1) 714.0 - RHEUMATOID ARTHRITIS
Reason:	CONSULT AND FOLLOW UP TREATMENT ON RHEUMATOID ARTHRITIS
Status:	Approved
Decision Date:	12/28/2005 10:16:22 AM
Type:	Referral

Please note that the Expiration Date is the last date on which this Authorization can be used. After this date, the authorization will be automatically cancelled, even if all the authorized visits have not been used.

All payments are subject to the member's updated eligibility, covered benefits, Medical Policy and reimbursement schedules. This does not confirm eligibility. Payment of services is based on the member's participation in the Health Plan program at the time of visit.

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## Osteoporosis Center of San Jose

25 North 14<sup>th</sup> Street, Suite 890

San Jose, CA 95112

Phone: 408-288-6694

Fax: 408-288-6698

January 19, 2006

Melanie Martin, M.D.  
554 Blossom Hill Road  
San Jose, CA 95123

JAN 24 2006

RE: Leavitt, John  
573263344  
DATE OF EVALUATION: January 19, 2006  
DATE OF COMPARISON: April 05, 2004

Dear Dr. Martin:

Mr. John Leavitt returns to the Osteoporosis Center of San Jose for repeat bone mineral density determination. Since his previous examination, Mr. Leavitt has been supplementing his diet with an unspecified amount of calcium, and walking for 30 minutes everyday.

Bone mineral density was measured on a Lunar Prodigy Bone Densitometer.

Average bone mineral density of the lumbar spine is 123% of that achieved in the young adult male lumbar spine, T-score of +2.4. This represents a significant 10% increase in bone mineral density. Inspection of scan image reveals advancing degenerative changes are likely mainly responsible for most of this increase.

Average bone mineral density of the left proximal femoral neck is 123% of that achieved in the young adult male femoral neck region, T-score of +1.9. This is unchanged.

Average bone mineral density of the right proximal femoral neck is 98% of that achieved in the young adult male femoral neck region, T-score of -0.2. This is unchanged.

Average bone mineral density of the left mid-third radius is 81% of that achieved in the young adult male mid-third radius, T-score of -1.9. This is unchanged.

Mr. Leavitt is a 79-year-old male with a history of osteopenia. Since his previous examination, there has been no change in bone mineral density at any site tested.

Thank you for the confidence of this referral.

Sincerely,

Bruce J. Dreyfuss, M.D.  
Medical Director  
Certified Clinical Densitometrist

cc: Mr. John Leavitt  
Bruce J. Dreyfuss, M.D.

- WNL-Inform Pt. \_\_\_\_\_  
 Call pt. To Discuss Lab. \_\_\_\_\_  
 OK to File 70 72406  
 Pt. Informed \_\_\_\_\_



**San Jose Orthopedic Associates**  
Medical Corporation

Mark I. Gold, M.D., F.A.C.S.  
Timothy O. Hovland, P.A.C.

2505 Samaritan Drive, Suite 210, San Jose, CA 95124  
Phone: 408 358 8300 Fax: 408 358 8301

March 28, 2006

Melanie Martin, M.D.  
554 Blossom Hill Road  
San Jose, CA 95123

RE: John Leavitt

Dear Dr. Martin:

Mr. Leavitt had an appointment to see me today for a new discussion regarding left hip arthroplasty. I had seen him last year for the same discussion, and at that time, we both decided that he was not symptomatic enough to require surgery. He is much more disabled at present and is ready to have his total hip.

On a more urgent basis, the patient is being seen for his left wrist. Although he was not referred here for the wrist, he informs me that four days ago he first noticed swelling in the volar forearm and wrist. The swollen area has become larger, the resulting mass more tense. The patient is now experiencing pain and numbness in the hand, which keeps him awake at night and is growing worse by the hour. He has no recollection of any trauma to the region and is not taking anticoagulants.

**PHYSICAL EXAMINATION:** Examination of the wrist reveals a mass lesion which begins just proximal to the carpal canal and extends to the ulnar border of the forearm. The ulnar artery is readily palpable superficial to the lesion, but the lesion itself is not pulsatile. The lesion abruptly ends at the proximal border of the carpal canal leading me to believe that it is subretinacular. It has a fluctuant character rather than nodular. The patient's fingers are deformed from his rheumatoid arthritis.

Examination of the hip was deferred today, but the patient is observed to walk with an obvious limp. On previous examinations, he was found to have limited motion and loss of function.

**RADIOGRAPHIC DATA:** New radiographs of the left hip were obtained today which show further collapse of the femoral head and advanced degenerative arthritis.

TJ

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Re: John Leavitt  
Date: May 28, 2006

There is little question that Mr. Leavitt would benefit from a left total hip arthroplasty. I believe his functional loss is sufficient that he now wishes to undergo the surgery. His more immediate concern is his left wrist, and I am concerned as well. The rapid increase in size of the lesion suggests that it is fluid filled, but I am reluctant to aspirate it because of the proximity of the ulnar artery and my lack of knowledge from where the lesion arises. For this reason, I have hastily arranged an MRI scan for this afternoon to better define the lesion and guide me towards appropriate treatment. If it indeed is fluid, then I will aspirate it once I see the images and then decide on a more permanent means of decompressing the median nerve.

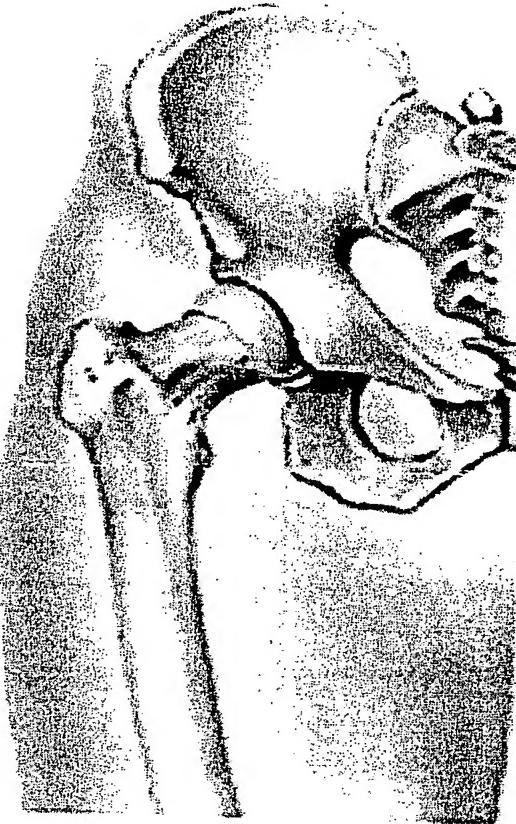
Sincerely,

Mark I. Golod, M.D.

MIG/rk

TM

**TOTAL HIP REPLACEMENT:  
A PATIENT'S GUIDE FROM DIAGNOSIS TO RECOVERY**



To enroll in the Joint Replacement  
Pre-operative instructional class,  
contact  
**Good Samaritan Hospital's Arthritis and Joint Replacement Center**  
at 408-559-2180

